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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO. CONFIRMATION NO.	
10/813,449	03/30/2004	Enrique J. Klein	16497.28.1	7612
57360 WORKMAN N	7590 08/28/2009 IYDEGGER	,	EXAMINER	
1000 EAGLE C	GATE TOWER,	DOWE, KATHERINE MARIE		
60 EAST SOUT SALT LAKE C	TH TEMPLE TTY, UT 84111		ART UNIT	PAPER NUMBER
			3734	
			MAIL DATE	DELIVERY MODE
			08/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary		Applicat	Application No.		Applicant(s)	
		10/813,4	49	KLEIN ET AL.		
		Examine	r	Art Unit		
		KATHER	INE M. DOWE	3734		
Period fo	The MAILING DATE of this commun r Reply	ication appears on th	e cover sheet with the	correspondence a	ddress	
A SHO WHIC - Exten after: - If NO - Failur Any n	DRTENED STATUTORY PERIOD F HEVER IS LONGER, FROM THE M sions of time may be available under the provisions SIX (6) MONTHS from the mailing date of this comr period for reply is specified above, the maximum st e to reply within the set or extended period for reply sply received by the Office later than three months of d patent term adjustment. See 37 CFR 1.704(b).	AAILING DATE OF T of 37 CFR 1.136(a). In no e nunication. atutory period will apply and v will, by statute, cause the ap	HIS COMMUNICATION went, however, may a reply be will expire SIX (6) MONTHS froplication to become ABANDON	DN. timely filed m the mailing date of this IED (35 U.S.C. § 133).		
Status						
1)⊠ 2a)⊠ 3)□	Responsive to communication(s) file This action is FINAL . Since this application is in condition closed in accordance with the practi	2b)⊡ This action is for allowance excep	t for formal matters, p		e merits is	
Dispositi	on of Claims					
5)□ 6)⊠ 7)□ 8)□ Applicati	Claim(s) 1,2,5-14,16-20,23 and 24 if 4a) Of the above claim(s) is/a Claim(s) is/are allowed. Claim(s) 1,2,5-14,16-20,23 and 24 if Claim(s) is/are objected to. Claim(s) are subject to restrict on Papers The specification is objected to by the	re withdrawn from constant services. Stare rejected. Stion and/or election Examiner.	onsideration. requirement.			
_	The drawing(s) filed on is/are Applicant may not request that any obje Replacement drawing sheet(s) including The oath or declaration is objected to	ction to the drawing(s) g the correction is requi	be held in abeyance. S red if the drawing(s) is c	ee 37 CFR 1.85(a). objected to. See 37 C		
Priority u	nder 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
2) Notice 3) Inform	e of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (For Disclosure Statement(s) (PTO/SB/08) No(s)/Mail Date <u>5/4/2009</u> .	PTO-948)	4) Interview Summa Paper No(s)/Mail 5) Notice of Informal 6) Other:			

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DETAILED ACTION

1. The following is a complete response to the amendment filed May 4, 2009.

2. Claims 1, 2, 5-14, 16-20, 23, and 24 are currently pending.

Claim Rejections - 35 USC § 112

3. The amendment to claims 1 and 24 are acknowledged. Accordingly, the rejections of the claims under 35 U.S.C. 112, second paragraph, as lacking antecedent basis are withdrawn.

Claim Rejections - 35 USC § 102

- 4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 5. Claims 1, 2, 5-14, 16-20, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Sauer et al. (US 5,368,601). Sauer et al. disclose a method for suturing tissue in the proximity of an aperture in a tissue wall comprising positioning distal-most ends of a suture (94) distally of the aperture of the tissue wall (Fig 12), advancing first (56) and second (58) needles from a distal side of the tissue wall (128) to form a port within the tissue wall in proximity of the aperture and drawing at least a portion of the suture from the distal side of the tissue wall to the proximally through the port in the tissue wall (Figs 13-14), and forming a loop with the remaining portion of ht suture to secure the suture (Fig 15; col 5, Il 23-55). The needles and suture are advanced by advancing a shaft (12) that supports the needles on its distal end through the aperture.

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Response to Arguments

6. Applicant's arguments, see amendment, filed May 4, 2009, with respect to the rejection(s) of claim(s) 1, 2, 5-14, 16-20, 23, and 24 under Heidmueller (US 5,320,632) have been fully considered and are persuasive. Applicant argues Heidmueller does not disclose positioning distal-most ends of a suture distally of the aperture of the tissue wall. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Sauer et al. (US 5,368,601).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to KATHERINE M. DOWE whose telephone number is

(571)272-3201. The examiner can normally be reached on M-F 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Katherine Dowe

August 25, 2009

/K. M. D./

Examiner, Art Unit 3734

/Anhtuan T. Nguyen/

Supervisory Patent Examiner, Art Unit 3731

8/27/09